

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.926 of 2004

ORAL ORDER:

It appears, the petitioner was the fair price shop dealer of Voilasingaram village, Nadigudem mandal, Nalgonda district. While so, his authorisation was suspended by the third respondent-Revenue Divisional Officer by order dated 22.8.2002 for certain irregularities said to have been committed by the petitioner. Thereafter, after issuing show cause notice to the petitioner, the third respondent passed order dated 15.10.2002 cancelling the authorisation of the petitioner. Aggrieved by the same, petitioner carried the matter in appeal before the second respondent-Joint Collector. The second respondent after perusal of the records and on hearing the parties, refused to interfere with the orders passed by third respondent dated 15.10.2002 and confirmed the same by his order dated 8.7.2003. Aggrieved thereby, the petitioner further carried the matter in revision before the first respondent-District Collector. The first respondent by his order dated 18.9.2003 also confirmed the orders passed by the second respondent. Aggrieved by the same, the present writ petition is filed.

The order passed by the third respondent dated 15.10.2002, reads as under:

“Proceedings No.D/1605/2002 dated 15.10.2002.

Sub: Civil Supplies – Suryapet Division – Nadigudem (M)
– Voilasingaram (V) – Diversion of FFW Rice by Sri
Vangaveeti Shekar, FPS dealer – cancellation of
authorisation – Orders issued – Reg.

Ref: 1. MRO Nadigudem Lr.No.B/2947/2002 dated
21.8.2002.

2. This Office Proc.No.D/1605/2002 dated
22.8.2002.

3. Show cause notice No.D/1605/2002 dt.5.9.2002.

ORDER:

The Mandal Revenue Officer, Nadigudem has enquired locally regarding the theft of rice and inspected the Fair Price Shop of Sri Vangaveeti Shekar Fair Price Shop dealer of Voilasingaram and reported vide reference 1st read above that Sri Vangaveeti Ganesh S/o Vangaveeti Shekar Fair Price Shop dealer of Voilasingaram has diverted the rice with a plea of theft.

On inspection of Fair Price Shop only 75 qtls. of Rice and 4-00 qtls. of Sugar available with Fair Price Shop Dealer instead of total stock 148.31 qtls. rice to be available as per stock register. Thus, there is shortage of 83-11 qtls. rice and 4-00 sugar excess and opined that the Fair Price Shop dealer has diverted and misused 83-11 qtls. rice with the help of his son with a plea that the stock has stolen by thieves. Hence the Mandal Revenue Officer reported to take action against the Fair Price Shop dealer.

Hence the authorisation of Sri Vangaveeti Sekhar has been suspended vide reference 2nd read above and the S.I. of Police has also requested to enquire and book a case against the culprits.

A show cause notice was also issued to the Fair Price Shop dealer calling explanation vide reference 3rd read above. The Fair Price Shop dealer has not submitted his explanation so far.

Since the Fair Price Shop dealer Sri V. Shekar has diverted and misused Food For Work rice, contravened the conditions under clause 4, 16 of authorisation of the Fair Price Shop dealer is hereby cancelled with immediate effect under A.P. State P.Ds. (Control) Order, 2001."

In view of the above, there is no necessity of going into other details. The order passed by the third respondent is not based on any independent enquiry conducted by him or any evidence was let in for the purpose of coming to the conclusion that the petitioner has diverted and misused the rice contravening clauses 4 and 16 of the authorisation and the control orders. This order was confirmed by the Joint Collector and the District Collector. Neither the Joint Collector nor the District Collector gave any reasons except noting down the events that had taken place in the case.

I am of the opinion that the orders passed by the Revenue Divisional Officer dated 15.10.2002 as confirmed by the Joint Collector and further confirmed by the District Collector suffers from gross violation of principles of natural justice and do not stand to scrutiny of law, therefore, the same are liable to be set aside.

In this regard, the learned counsel for petitioner placed reliance on the Division Bench judgment of this Court in **M.KALYANI v. DISTRICT COLLECTOR, PRAKASAM DISTRICT, ONGOLE & OTHERS**^[1], wherein it was held as under:

“Insofar as the orders passed by respondents 1 and 2 are concerned, we are satisfied that even though the two officers had tried to fill in the lacunae in the order of cancellation, the same cannot be relied upon for upholding an illegal order passed by the Competent Authority.

For the reasons mentioned above, the appeal is allowed. The order of the learned Single Judge is set aside. Orders dated 9.10.2004, 17.2.2005 and 29.5.2005 passed by respondents 3, 2 and 1 respectively are also quashed with the direction to the Revenue Divisional Officer, Markapur to supply copy of the report of the Mandal Revenue Officer, Pullalacheruvu to the appellant. The needful be done within one month from the date of receipt of a copy of this order. Within next two weeks, the appellant may file her reply. Thereafter, the Competent Authority shall be free to pass appropriate order in accordance with law. Till the passing of appropriate order, the appellant shall be allowed to continue to operate the fair price shop. However, it is made clear that if the order of the Revenue Divisional Officer is against the appellant, then she shall not be entitled to continue to operate the fair price shop”.

In view of the above, I am of the opinion that the writ petition is liable to be allowed.

In the result, the writ petition is allowed and the order passed by

the Revenue Divisional Officer dated 15.10.2002 as confirmed by the Joint Collector by order dated 8.7.2003 and further confirmed by the District Collector by order dated 18.9.2003 are set aside. The authorisation of the petitioner shall be restored forthwith. However, this will not preclude the authorities from conducting fresh enquiry into the matter and passing appropriate orders as per law. No order as to costs.

C.V.RAMULU,
J

Date: 30.10.2006

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.926 of 2004

30.10.2006

**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD**

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.926 of 2004

Date: 30th October, 2006

Between:

Vangaveeti Shekar

.. Petitioner

And

The District Collector,
Nalgonda district & others.

.. Respondents

[\[1\]](#) 2006(5) ALD 796 (DB)